

MAILED

SEP 24 2004

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

**Ex parte MARTIN F. BERRY, KATHERINE G. HAIGHT, DONALD C. WEBER,
HAROLD L. MANTIUS, LUTHER H. LEAKE and ROD SERRES**

Application No. 09/447,023

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on July 13, 2004. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matters requiring attention prior to docketing are identified below.

The Examiner failed to list the prior art as required by MPEP § 1208 (A)(9):

A) REQUIREMENTS FOR EXAMINER 'S ANSWER. The examiner 's answer is required to include, under appropriate headings, in the order indicated, the following items:

(9) References of Record . A listing of the references of record relied on, and, in the case of nonpatent references, the relevant page or pages.

This needs to be completed.

Application No. 09/447,023

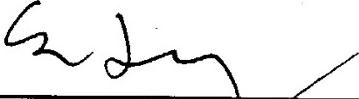
Claims 96 and 101 include parentheses. Parentheses, underlining and/or brackets are not permitted in the claims filed in the Appendix to the Appeal Brief. These claims need to be corrected.

Accordingly, it is

ORDERED that the application is returned to the examiner for correction of the Examiner's Answer, correction of the Appendix to the Appeal Brief and for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: _____


Craig R. Feinberg
Program and Resource Administrator
(703) 308-9797

cc: Fish & Richardson PC
225 Franklin Street
Boston, MA 02110

CRF/eld
RA04-0787